

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated  5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No  6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT  
HIGHLY MIGRATORY SPECIES (HMS)  
EXEMPTED FISHING PERMIT/SCIENTIFIC RESEARCH PERMIT/  
LETTER OF AUTHORIZATION INFORMATION COLLECTION**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

This submission requests clearance to: (1) impose the new reporting requirements contained in the attached proposed rule, and (2) obtain separate clearance for existing requirements that have previously been cleared under 0648-0309. The new information collection adds notification and reporting requirements pursuant to the collection of sharks under HMS Exempted Fishing Permits (EFPs). These additional requirements are needed to increase enforcement capabilities for HMS exempted fishing activities and to assure the legitimacy of captured animals.

The success of fisheries management programs depends significantly on ensuring that allowable harvests are not exceeded. The requirements in this collection derive their authority from two separate acts, and the differences in those acts are responsible for the variations in the requirements applying to different species.

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) (Magnuson-Stevens Act) governs domestic fisheries. Under the act, the National Marine Fisheries Service (NMFS) may authorize fishing activities outside the established regulations. NMFS needs the ability to monitor exempted fishing activities to ensure compliance with authorized harvest levels in a timely and accurate manner, as this is crucial to enforcement. Under the Magnuson-Stevens Act, scientific research activities are exempt from regulation.

The Atlantic Tunas Convention Act (ATCA) at 16 U.S.C. 971 requires the Secretary of Commerce (Secretary) to promulgate regulations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue these regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA. Section 971 d.(c)(3) of the ATCA provides the statutory authority to require the collection of information necessary to implement the recommendations of ICCAT. An additional purpose of this collection of information is to comply with the U.S. obligations under the ATCA.

The Magnuson-Stevens Act is the sole authority for management of fishing activities for Atlantic sharks (for which there is no international management). Since scientific research activities are exempt under that act, NOAA cannot require the submission of information pertaining to scientific research involving sharks. NMFS does request the voluntary submission of a scientific research plan, which is acknowledged by a Letter of Acknowledgment (LOA) from the appropriate NMFS official, to establish a basis for a presumption that an activity in the EEZ is scientific research, and unregulated, as opposed to regulated fishing.

Under both the Magnuson- Stevens Act and ATCA, non-scientific activities, including collection for education or display, may be authorized under EFPs. EFPs are necessary to allow investigation of the feasibility or advantages of fishing gear, methods or procedures which would otherwise be prohibited by existing regulations. These activities, if authorized, could potentially benefit recreational or commercial fishing, or could confer conservation or management benefits. EFPs are issued to address conflicts with regulations issued under the ATCA or the Magnuson-Stevens Act. The retention of swordfish aboard ship after a fishery closure requires the issuance of an EFP.

Technically, scientific research is exempt from regulation under the Magnuson-Stevens Act, so NMFS does not issue exempted fishing permits for bona fide research activities (i.e., the work is conducted from a research vessel and not a commercial fishing vessel) involving species regulated under Magnuson-Stevens Act FMPs. To avoid enforcement issues, however, NMFS does request copies of scientific research plans. In such cases, NMFS does issue a LOA to researchers to indicate concurrence by NMFS that the proposed activity meets the definition of research and is therefore exempt from regulation. This LOA provides the researchers with documentation in the event of an enforcement situation.

The ATCA, on the other hand, does confer regulatory authority over scientific research so that all sources of mortality of species regulated by ICCAT can be reported by the Secretary. In cases where tunas, swordfish and billfishes are being collected, NMFS will issue an EFP if the research/collection occurs in conjunction with regulated commercial or recreational fishing activity (e.g., observers on-board a longliner), or a scientific research permit (SRP) if the collection of regulated species occurs as part of a research cruise (e.g., NOAA or university research vessel). Again, the SRP or EFP serves the purpose of providing the individual researcher and/or vessel operator with documentation in the event of an enforcement situation.

To regulate these fishing activities, NMFS needs information to determine the justification of granting an EFP. The application requirements are detailed at 50 CFR 600.745(b). Although the HMS program authority for requiring this information is found at 50 CFR 635.32(c), and NMFS is requesting clearance for the requirements as defined in those regulations, for consistency the application requirements are the same as for non-HMS permits covered by 600.745(b). A copy of that regulation is attached. This submission, however, assumes that if changes are made to 50 CFR 700.745 and obtain PRA approval under 0648-0309, those changes would automatically apply to HMS permits without additional clearance action.

Since each exempted activity would address unique questions, the details of reporting requirements cannot be completely identified in advance. The specific requirements of this collection generally would include the following prior to the activity beginning:

- advance notification of the fishing or research vessel to be used,
- the number and size classes of fish to be caught or retained,
- the anticipated locations to be fished,
- commencement dates and duration of the activities,
- the fishing methods to be employed, and

- notification of departure to collect animals for public display.

Post-activity reports would include:

- catch/collection reports and “no-catch” reporting
- tagging animals collected for public display
- notification prior to arrival in port,
- shipment notifications (for public display),
- swordfish notifications of offloading,
- swordfish reports that all fish have been offloaded, and
- year-end reports of results.

These specific reporting requirements will be identified in each EFP and failure to comply would result in a revocation of the authorization and/or issuance of a notice of violation. NMFS needs to know the amount and species of fish caught, where they are caught, and the catch disposition in order to effectively manage a fishery, and the other information is needed for enforcement purposes.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with applicable Information Quality Guidelines.**

SRPs/LOAs: NMFS Regions, Fishery Science Centers, and NOAA and Coast Guard enforcement use information obtained from voluntarily submitted research plans and subsequent reports in monitoring such activities to ensure they are bona fide scientific research activities. NMFS reviews each scientific research plan submitted to establish that the sponsoring organization and personnel involved are recognized scientific investigators, that the specific project contemplated appears to be scientific research and not commercial and recreational fishing, and that the vessel or vessels to be used are, or will be, used exclusively for research for the duration of the scientific research cruise. NMFS uses any reports or articles voluntarily submitted to document catch taken in scientific research for inclusion in the total catch, confirm the activities conducted were scientific research, and consider the appropriateness of acknowledging future requests.

Exempted fishing and exempted educational activities: NMFS Regions, Fishery Science Centers, and NOAA and Coast Guard enforcement use EFP requests and their reports to evaluate proposals for issuance of permits, ensure activities are carried out as described in the permit, and document the catch by exempted fishing for inclusion in the total catch. NMFS evaluates EFP requests to determine their usefulness to the overall goals of the applicable fishery management plans; determines their impact on the fishery stocks, endangered species, and marine mammals; and evaluates them comparatively with other applicants for the same fishery. Management and enforcement use the information to identify the entities and vessels involved and ensure the applicant carries out activities within the restraints of the permit. Management and enforcement

would use reports to document catch taken for inclusion in the total catch, confirm the activities conducted were in accordance with the permit, and consider the permittee for future permits.

NMFS evaluates exempted educational activity authorization requests to determine whether they are complete, confirms their educational value, and determines their consistency with the goals, objectives, and requirements of the applicable fishery management plans. Management and enforcement use the information to identify the entities and vessels involved and ensure the applicant carries out activities within the restraints of the permit. Management and enforcement use reports to document catch taken for inclusion in the total catch, to confirm the activities conducted were in accordance with the permit, and for consideration of future requests.

Requiring EFP recipients to report their harvest per occurrence in both federal and state waters as well as “no-catch” reporting, in addition to an annual report, to tag animals collected for public display, to notify NMFS when departing for and returning from fishing trips, and when shipping animals provides law enforcement personnel with a means to monitor fishing activities and harvest levels to ascertain whether the vessel’s observed activities are in accordance with those authorized for that vessel. By requiring an annual summary, NMFS is provided with a check to see if all individual reports have been submitted. Additionally, as many EFPs are issued for the purposes of research and/or public display, the scientific community, as well as the general public, will benefit as unauthorized and illegal fishing are deterred and more burdensome regulations are avoided. The information collected pursuant to scientific collection activities under EFPs may be incorporated in future stock assessments. Inadequate harvest controls under these EFPs could result in curtailment of collection activity and the loss of public benefits. For exempted commercial offloading and other commercial activities, economic information would be obtained through existing mandatory logbooks and vessel reports that would enable NMFS to better assess market gluts and cold storage problems associated with fishery closures.

Dissemination of information is not anticipated under this collection.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

This collection of information does not involve the use of automated, electronic, mechanical, or other technological techniques. The applications, landing report forms, and reports may either be mailed, faxed or called in to the HMS Division, as applicable, and the fishing and shipping notifications must be called in to NMFS. NMFS is considering the use of web/e-mail options in the future.

NMFS requires the implantation of microchip Passive Integrated Transponder (PIT) tags in animals brought back to shore. This will be an improvement over currently used conventional tags, which have caused on occasion, infections in animals held for display purposes, resulting in financial loss and will impose no burden on the public since NMFS will supply the tags and have the tag readers.

#### **4. Describe efforts to identify duplication.**

Scientific Research Plans: To the extent that scientific research organizations are required to submit scientific research plans to NOAA, NMFS, or other agencies as a part of any contract or grant, those same plans would be acceptable for the purposes of this information collection. Copies of any scientific cruise report or research documentation required to be submitted by a scientific research organization would be acceptable as a voluntary report for the purposes of this collection.

Exempted fishing: There is no duplication with other collections. These EFPs are issued relative to specific requirements submitted to NMFS.

#### **5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

Nearly all commercial fishing and collection vessels in the HMS fisheries are categorized as small businesses. The collection will not have a significant impact on small businesses, and no special modifications of the requirements were considered necessary to accommodate the needs of small businesses.

#### **6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Scientific research plans: If the information requested in the scientific research plan is not obtained, and SRPs and LOAs not issued, violations of the Magnuson-Stevens Act where the violator asserts he/she was conducting scientific research and not fishing will be difficult to prove. Legitimate researchers will be inconvenienced and enforcement units will conduct needless and inappropriate boardings of scientific research vessels whose activities are confused with fishing. If the information requested by exempted fishing and exempted educational activity permits is not obtained, there will be no standard way of dealing with these activities from region to region, there will be more incidents of persons who think they are conducting scientific research being found in violation of the Magnuson-Stevens Act, and the catches of some activities taking large amounts of fish currently considered scientific research may go unrecorded, possibly contributing to overfishing.

Exempted fishing: Issuance of EFPs allows NMFS access to relevant information that can be used in the management of fisheries. Requiring applicants for EFPs to report per occurrence landings or collections and to provide an annual summary of these activities will increase the efficacy of management measures and reduce costs for both the U.S. Coast Guard and NMFS Office of Law Enforcement. Less frequent reporting would not support this goal. In addition, if the PIT tag requirements are not implemented, NMFS would continue to have significant problems with accurate and timely enforcement of fisheries management measures, and collectors may suffer economic loss due to infections from current tagging practices preventing the sale of some animals.



**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

Some reports could be made more frequently than quarterly. This frequency, which depends on the number and timing of fishing trips the permit holder takes, is necessary for enforcement.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

Public comment on some of the proposed new requirements was solicited in a Federal Register Notice (copy attached). No comments were received. Public comment on other proposed new requirements has been solicited in a proposed rule (copy attached).

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

NMFS does not make payments or gifts to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

Public release of any data collected by NMFS is controlled by NOAA confidentiality of statistics procedures at 50 CFR part 600, subpart E. Applicants for experimental fishing permits and exempted educational activities may be required to waive confidentiality of information as a condition of a permit.

It is Agency policy not to release confidential data, other than in aggregate form, as the Magnuson-Stevens Act (Section 402) protects the confidentiality of those submitting data (see NOAA Administrative Order 216-100, Confidentiality of Fishery Statistics). Whenever data are requested, the Agency ensures that information identifying the pecuniary business activity of a particular vessel operator is not identified.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No information of a sensitive nature is requested.

## **12. Provide an estimate in hours of the burden of the collection of information.**

An application for an EFP must contain all the information required for an EFP application found at 50 CFR part 600.745(b)(2). An application for a SRP and a LOA must include a research plan and/or all the information required for an EFP application. Based on recent information on the number of EFP, SRP and LOA applications and requests for harvest of sharks, tunas, and swordfish as well as the anticipated number of fishermen that may request EFPs for exempted commercial offloading activities, should NMFS issue such permits, and other commercial activities, NMFS estimates that each EFP, SRP and LOA application would take approximately 30 minutes to prepare, each report per occurrence would average 5 minutes, and each annual summary would take approximately 30 minutes to prepare. Each phone call required of shark collectors to report to a NMFS enforcement agent the collection or shipment of animals would take approximately 5 minutes or less. Application of PIT tags to sharks captured for display would average 2 minutes per tag. While the burden of each application and report will vary somewhat based on the magnitude and complexity of the activity, NMFS believes these estimates are reasonable and that the majority of applications and reports will require less time than estimated. Based on EFP, SRP and LOA activity for the calendar year 2001, NMFS estimates the following annual burden:

### **A. Non-commercial EFP, SRP, and LOA Collections**

#### Collections for shark display EFPs:

15 shark display EFP applications @ 30 minutes = 7.5 hours

100 federal EFP catch reports @ 5 minutes = 8.3 hours

100 state-issued permit catch reports @ 5 minutes = 8.3 hours

45 “no-catch” reports @ 2 minutes = 1.5 hours

50 departure notification phone calls to NMFS Enforcement @ 5 minutes = 4.2 hours

100 PIT tag applications @ 2 minutes = 3.3 hours

50 arrival in port notification phone calls to NMFS Enforcement @ 5 minutes = 4.2 hours

50 air shipment notification phone calls to NMFS Enforcement @ 5 minutes = 4.2 hours

15 year-end reports @ 30 minutes = 7.5 hours

Total annual burden for applying, notifying, tagging, and reporting for HMS shark display EFPs:  
49 hours

### Collections for scientific research EFPs, SRPs and LOAs

25 EFP/SRP/LOA applications/research plans @ 30 minutes = 12.5 hours

125 EFP/SRP Landing Reports (5 reports x 25 applicants) @ 5 minutes = 10.4 hours

25 year-end reports @ 30 minutes = 12.5 hours

Total annual burden for applying and reporting for scientific research HMS EFPs, SRPs and LOAs: 35.4 hours

### **B. Commercial EFPs**

It is estimated that there may be 20 swordfish offloading EFP applicants. These applicants would benefit from delayed offloading by avoiding market gluts and cold storage problems.

Commercial EFP respondents for swordfish offloading would be required to perform three separate actions: apply for an EFP to retain swordfish after a fishery closure; notify NMFS when the vessel will be arriving in port; and notify NMFS when all swordfish have been offloaded from the vessel. Vessels will likely request EFPs for offloading twice per year, as the semiannual quotas may be reached twice per year. Other commercial fishing EFP respondents would be required to apply for the EFP, submit trawl vessel reports for fish retained, and submit year-end reports.

### Commercial EFP applications, notifications and reporting

20 swordfish offloading applications/notifications by phone or fax @ 10 minutes x 2 times per year = 6.7 hours

20 swordfish EFP arrival in port phone calls @ 5 minutes x 2 times per year = 3.3 hours

20 swordfish EFP offloading reports @ 5 minutes x 2 times per year = 3.3 hours

10 other commercial fishing applications @ 30 minutes = 5 hours

200 trawl vessel reports (20 reports x 10 applicants) @ 10 minutes = 33.3 hours

10 other commercial year-end reports @ 30 minutes = 5 hours

Total annual burden for swordfish and other commercial HMS EFP responses: 56.6 hours

### **C. Total Burden**

Total annual burden for applying, notifying, tagging and reporting for HMS shark display EFPs: 49 hours

Total annual burden for applying and reporting for scientific research HMS EFPs, SRPs and LOAs: 35.4 hours

Total annual burden for swordfish and other commercial HMS EFP responses: 56.6 hours

These estimates include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. This includes reports on individual fish as well as a year-end report and is considered a maximum estimate for the burden of this collection of information.

Total respondents: 170

Total responses: 1,040

Total burden hours: 141

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.**

The cost to EFP, SRP and LOA applicants is minimal, with only a letter, landing report form, or local telephone call needed to apply, notify or report. NMFS estimates that the total annual cost burden at \$262.70 with the average cost per EFP, SRP or LOA applicant at \$3.75:

Total EFP/SRP/LOA applications = 70

Total EFP/SRP/LOA reports = 640

Total EFP/SRP/LOA applications and reports = 710 x \$0.37 postage per application, form, and annual report (notification phone calls would be to local NMFS law enforcement officers/agents and therefore would not involve long distance charges) = \$262.70.

Total EFP/SRP/LOA cost of \$262.70 for 70 applicants = \$3.75 per applicant

Total optional costs of PIT tag readers that would not be required, but would be purchased at the discretion of the applicant = \$5,625, with the average cost per EFP applicant at \$375.

**14. Provide estimates of annualized cost to the Federal Government.**

Costs for printing and supplying EFP collection information cards are expected to be minimal. The information cards have been produced with a PC word processor and can be faxed or mailed to EFP recipients. No new overhead costs will be incurred for these collections because NMFS will be using existing staff and equipment to conduct duplication, distribution, collection, and data entry. Costs for PIT tags (microchips) for use by applicants and PIT tag readers for use by NMFS enforcement agents and their official representatives will be incurred by NMFS; however as inspection operations will be conducted by existing staff, no new personnel costs will be incurred. NMFS estimates there will be a one-time purchase of 10 PIT tag readers for a total cost of \$3,750 (10 @ \$375 per reader). Annual cost for PIT tags is estimated to be \$600 (100

tags @ \$6 per tag). Therefore, for the first year, the total cost to the Government is expected to be \$4,350; annual cost for the following years is expected to be \$600.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

This is a new clearance request and all hours and costs are program changes.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

No publication is planned.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

The expiration date will be displayed.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

No exceptions are requested.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.

## Highly Migratory Species Exempted Fishing Permit Collection Report

Complete and return this report form within 5 days of collection  
to Sari Kiraly, HMS Mgmt Division F/SF1, NMFS, 1315  
East-West Highway, Silver Spring, MD 20910 (301-713-2347).

Exempted Fishing Permit Number: SHK-EFP-00-00

Authorized Sampler\_\_\_\_\_

Date Collected\_\_\_\_\_

Species\_\_\_\_\_

Fork Length\_\_\_\_\_ Total Length\_\_\_\_\_ (inches or cm)

Weight (lbs or kg) \_\_\_\_\_; Male\_\_\_\_\_ Female\_\_\_\_\_

Disposition\_\_\_\_\_

Tag Number, if applicable\_\_\_\_\_

Gear Used: \_\_\_\_ Handline \_\_\_\_ Rod and Reel \_\_\_\_ Net

\_\_\_\_ Longline \_\_\_\_ Purse Seine \_\_\_\_ Other (specify)

Areas Where Caught\_\_\_\_\_  
(latitude, longitude, or as precise as possible)

Depth\_\_\_\_\_ (ft, fm, m); Water temperature\_\_\_\_\_ (°C or °F)

Vessel Name\_\_\_\_\_

Name of Vessel's Master (print)\_\_\_\_\_

Signature of Vessel's Master\_\_\_\_\_

Date of Signature\_\_\_\_\_

Certification: I certify that the information provided by me on  
this form is true to the best of my knowledge, and made in good  
faith.

FALSE STATEMENT ON THIS FORM IS PUNISHABLE BY LAW.

PAPERWORK REDUCTION ACT NOTICE: Collection of information through an exempted fishing permit program provides essential information for the conservation and management of Atlantic swordfish, billfish, and sharks. Information on distribution and migratory patterns will be used for stock assessment and in developing international catch sharing agreements. Public reporting burden for this collection of information is estimated to average 5 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: NMFS, Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910. Reporting of exempted fishing permit activity is required under the authority of the Magnuson Stevens Fishery Conservation and Management Act. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

## Highly Migratory Species Exempted Fishing Permit Landing Report

Complete this report within 24 hours of landing and fax to  
the HMS Management Division, 301-713-2347.

Species \_\_\_\_\_

Exempted Fishing Permit Number \_\_\_\_\_

Authorized Sampler \_\_\_\_\_

Date Landed \_\_\_\_\_

Gear Used:   \_\_\_ Handline           \_\_\_ Harpoon   \_\_\_ Rod and Reel  
              \_\_\_ Longline       \_\_\_ Purse Seine   \_\_\_ Other

☐ Fin   ☐ Snout                   ☐ Fin   ☐ Snout  
Fork Length (curved measure) \_\_\_\_\_ (straight measure) \_\_\_\_\_

Exact Weight (give at least one)   Round \_\_\_\_\_   Dressed \_\_\_\_\_

Tag Number, if applicable \_\_\_\_\_

Areas Where Caught (circle one)   1 2 3 4 5 6 7 8 9 10

Port Landed \_\_\_\_\_

Vessel Name \_\_\_\_\_

Name of Vessel's Master (print) \_\_\_\_\_

Signature of Vessel's Master \_\_\_\_\_

Date of Signature \_\_\_\_\_

Certification: I certify that the information provided by me on  
this form is true to the best of my knowledge, and made in good  
faith.

FALSE STATEMENT ON THIS FORM IS PUNISHABLE BY LAW.

PAPERWORK REDUCTION ACT NOTICE: Collection of information through an exempted fishing permit program provides essential information for the conservation and management of Atlantic tunas, swordfish, and billfish. Information on distribution and migratory patterns will be used for stock assessment and in developing international catch sharing agreements. Public reporting burden for this collection of information is estimated to average 5 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: NMFS, Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910. Reporting of exempted fishing permit activity is required under the authority of the Atlantic Tunas Convention Act. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

OMB Control #  
Expires

## Highly Migratory Species Scientific Research Permit Landing Report

Complete this report within 24 hours of landing and fax to  
the HMS Management Division, 301-713-2347.

Species \_\_\_\_\_

Scientific Research Permit Number \_\_\_\_\_

Authorized Sampler \_\_\_\_\_

Date Landed \_\_\_\_\_

Gear Used:   \_\_\_ Handline           \_\_\_ Harpoon   \_\_\_ Rod and Reel  
              \_\_\_ Longline       \_\_\_ Purse Seine   \_\_\_ Other

☐ Fin   ☐ Snout                   ☐ Fin   ☐ Snout  
Fork Length (curved measure) \_\_\_\_\_ (straight measure) \_\_\_\_\_

Exact Weight (give at least one)   Round \_\_\_\_\_   Dressed \_\_\_\_\_

Tag Number, if applicable \_\_\_\_\_

Areas Where Caught (circle one)   1 2 3 4 5 6 7 8 9 10

Port Landed \_\_\_\_\_

Vessel Name \_\_\_\_\_

Name of Vessel's Master (print) \_\_\_\_\_

Signature of Vessel's Master \_\_\_\_\_

Date of Signature \_\_\_\_\_

Certification: I certify that the information provided by me on  
this form is true to the best of my knowledge, and made in good  
faith.

FALSE STATEMENT ON THIS FORM IS PUNISHABLE BY LAW.

PAPERWORK REDUCTION ACT NOTICE: Collection of information through a scientific research permit program provides essential information for the conservation and management of Atlantic tunas, swordfish, and billfish. Information on distribution and migratory patterns will be used for stock assessment and in developing international catch sharing agreements. Public reporting burden for this collection of information is estimated to average 5 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: NMFS, Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910. Reporting of scientific research permit activity is required under the authority of the Atlantic Tunas Convention Act. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

OMB Control #  
Expires

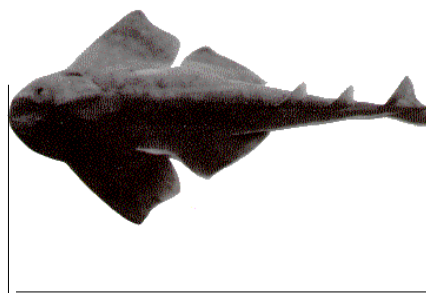


## INSTRUCTIONS FOR REPORTING FORM FOR EXEMPTED FISHING PERMIT FOR TRAWL VESSELS

Use a separate form for each trip.

1. Provide the official vessel documentation number.
2. Print the captain's name.
3. The captain must sign here.
4. Provide the dates the trip began and ended.
5. Provide the location of the beginning of the tow. Please use the grid numbers marked on the map provided. This is the same map used in the Snapper-Grouper, King and Spanish Mackerel, and Shark logbooks. If you are fishing outside the numbered locations, please call (301) 713-2347 for instructions.
6. Provide the location of the end of the tow. Please use the grid numbers marked on the map provided. This is the same map used in the Snapper-Grouper, King and Spanish Mackerel, and Shark logbooks. If you are fishing outside the numbered locations, please call (301) 713-2347 for instructions.
7. Provide the total number and total weight in pounds of angel sharks caught.
8. If sharks, other than angel sharks, were caught, provide the total weight in pounds of the sharks landed, discarded dead, or discarded alive. Also, please list the shark species caught.
9. Provide the information in the table for the first 10 angel sharks removed from the trawl. Note the sex of the shark, it's length in inches, it's total weight in pounds, and if you kept or discarded it. Diagrams are provided below for the length measurements. If you sell the angel shark, provide the ex-vessel price per pound and the name of the dealer who bought the shark. If you give the angel shark (or part of it, e.g., the stomach or the vertebrate) to a scientist for research, provide the name of the scientist.

Length from tip  
of left pectoral  
fin to tip of right  
pectoral fin.

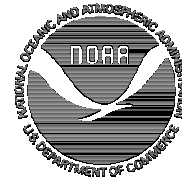


Total length -  
Tip of nose to Tip of Tail

10. Provide copies of all trip tickets for this trip.

# REPORTING FORM FOR EXEMPTED FISHING PERMIT FOR TRAWL VESSELS

This form is optional and provided for your convenience. However, all information contained on this form must be submitted per the regulations at 50 CFR § 635.32 (c)(4).



1. Official Vessel Number: \_\_\_\_\_

2. Captain name (Print): \_\_\_\_\_

3. Captain signature: \_\_\_\_\_

4a. Date trip began	____ / ____ / 2002	4b. Date trip ended	____ / ____ / 2002
5. Location at beginning of tow		6. Location at end of tow	
7a. Total number of angel sharks caught		7b. Total weight of angel sharks caught	
8a. Were sharks other than Angel sharks caught		8b. If yes, total weight of other sharks landed	
8c. If yes, total weight of other sharks discarded alive		8d. If yes, total weight of other sharks discarded dead	
8e. Please list shark species, other than angel sharks, caught.			

9. Characteristics of up to ten individual angel sharks caught (if more than 10 caught, please provide information for only 10 sharks)

#	Sex	Length pectoral fin to pectoral fin	Total length (nose to tip of tail)	Whole weight	Discarded dead (DD), discarded alive (DA), or kept (K)	If sold, price per lb	If sold, name of dealer	If given to scientist, name of scientist
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

10. Please provide copies of any trip tickets for this trip.

**PAPERWORK REDUCTION ACT NOTICE:** Collection of information through an exempted fishing permit program provides essential information for the conservation and management of Atlantic swordfish, billfish, and sharks. Information on distribution and migratory patterns will be used for stock assessment and in developing international catch sharing agreements. Public reporting burden for this collection of information is estimated to average 10 minutes per response, Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: NMFS, Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910. Reporting of exempted fishing permit activity is required under the authority of the Magnuson Stevens Fishery Conservation and Management Act. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

OMB Control #  
Expires

[Add items ac through aj to read as follows:]

ac. Mailer refusing to accept delivery of the parcel on return.

ad. Mail not bearing the complete names and addresses of the sender and addressee, or not deliverable to either the addressee or sender.

ae. Event tickets (e.g., nonrefundable tickets for concert, theater, sport, or similar events) received after the event and, for insurance purposes, insured for loss, not for delay or receipt after the event for which they were purchased.

af. Software installed onto computers that have been lost or damaged.

ag. Personal check remitted to the mailer for a COD article and not honored or otherwise payable by the financial institution upon which it is drawn. If the personal check is lost in transit, it is the mailer's responsibility to obtain a replacement check from the addressee. Indemnity to the mailer is limited to stop payment charges incurred by the addressee for the issuance of a replacement check, if the mailer establishes that the addressee incurred the charge and was reimbursed by the mailer for this amount.

ah. Damaged articles not claimed within the prescribed time limits set forth in *Postal Operations Manual* 147.3.

ai. Personal time used to make handmade, hobby, craft, or similar items.

\* \* \* \* \*

### 3.0 PAYMENT

\* \* \* \* \*

#### 3.3 Dual Claim

[Revise 3.3 to read as follows:]

If the sender and the addressee both claim insurance and cannot agree on which one should receive the payment, any payment due is made to the sender unless the claim has already been paid to the addressee upon presentation of the mailing receipt.

\* \* \* \* \*

### 4.0 ADJUDICATION

\* \* \* \* \*

#### 4.2 Appeal

[Revise 4.2 to read as follows:]

A customer may appeal a claim decision by filing a written appeal within 60 days of the date of the original decision. Except for an unnumbered, insured article, the customer must send the appeal directly to Claims Appeals (see G043 for address). For an unnumbered, insured article, the customer must send the appeal to the post office where the claim was filed.

That post office forwards the appeal to the manager of Claims Appeal at the St. Louis ASC.

#### 4.3 Final USPS Decision

[Revise 4.3 to read as follows:]

If the manager of Claims Appeals at the St. Louis ASC sustains the denial of a claim, then the customer may submit an additional appeal within 60 days for final review and decision to the Consumer Advocate, Postal Service Headquarters, who may waive standards in S010 in favor of the customer.

\* \* \* \* \*

### S900 Special Postal Services

#### S910 Security and Accountability

\* \* \* \* \*

#### S913 Insured Mail

\* \* \* \* \*

### 2.0 MAILING

\* \* \* \* \*

[Revise 2.7 to read as follows:]

#### 2.7 Receipt

For each insured article mailed, the mailer receives the appropriate postmarked receipt:

a. Form 3813 when the insurance coverage is \$50 or less.

b. Form 3813-P when the insurance coverage is more than \$50.

c. Form 3877 when multiple accountable mail articles are mailed at one time.

\* \* \* \* \*

#### S920 Convenience

\* \* \* \* \*

#### S921 Collect on Delivery (COD) Mail

\* \* \* \* \*

### 3.0 MAILING

\* \* \* \* \*

#### 3.4 Indelible Ink, Mailer Errors

[Revise 3.4 to read as follows:]

The particulars required on the form must be filled in by hand with ink, typewritten, or computer printed. The Postal Service is not responsible for errors that a mailer makes in stating charges to be collected. The mailer can not stipulate "CASH ONLY". The recipient has the option to pay the charges by cash or personal check.

\* \* \* \* \*

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

**Stanley F. Mires,**  
Chief Counsel, Legislative.

[FR Doc. 02-30935 Filed 12-5-02; 8:45 am]

**BILLING CODE 7710-12-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 021113274-2274-01; I.D. 031501A]

RIN 0648-AO79

### Atlantic Highly Migratory Species; Exempted Fishing Activities

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule in accordance with framework procedures for adjusting the management measures of the Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP), and Amendment 1 to the Atlantic Billfish Fishery Management Plan (Billfish FMP). This proposed rule would modify existing regulations for Atlantic highly migratory species (HMS) exempted fishing activities. The intent of the changes is to improve monitoring of exempted fishing activities for Atlantic HMS. NMFS will hold a public hearing to receive comments from fishing participants and other members of the public regarding the proposed exempted fishing specifications.

**DATES:** Comments must be received no later than 5 p.m., eastern standard time, on January 6, 2003.

The public hearing date is December 16, 2002, 7 p.m.—9 p.m.

**ADDRESSES:** Written comments on the proposed rule should be submitted to Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301-713-1917. Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to the Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer). Comments will not be accepted if submitted via e-mail or the internet.

The public hearing location is: Sea World Adventure Park, Ports of Call

Building, 7007 Sea World Drive, Orlando, Florida, 32821.

**FOR FURTHER INFORMATION CONTACT:** Sari Kiraly at 301-713-2347, fax 301-713-1917, e-mail [Sari.Kiraly@noaa.gov](mailto:Sari.Kiraly@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Under 50 CFR 635.32, and consistent with 50 CFR 600.745, NMFS may authorize for limited testing, public display, and scientific data collection purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an Exempted Fishing Permit (EFP) or a Scientific Research Permit (SRP) issued by NMFS in accordance with criteria and procedures specified in those sections. As necessary, an EFP or SRP would exempt the named party(ies) from otherwise applicable regulations under 50 CFR part 635. Such exemptions could address fishery closures, possession of prohibited species, commercial permitting requirements, and retention and minimum size limits.

This proposed action was developed in response to ongoing concerns related to past EFPs for the purpose of capturing regulated HMS, particularly sharks collected for public display, and is intended to strengthen the existing regulations that govern such EFP related activities. The proposed rule is in accordance with framework procedures for adjusting management measures provided in the Final HMS FMP, and Amendment 1 to the Billfish FMP.

### Exempted Fishing Operations

With respect to exempted fishing activities, NMFS proposes the following new requirements:

(1) Collectors of HMS for display purposes would be required to notify the local NMFS Office for Law Enforcement 72 hours prior to departing on a collection trip in federal or state waters as to collection plans and location, and number of animals to be collected. Also, at the end of each collection trip, upon return to port the collector would be required to call the local NMFS Office for Law Enforcement to report the conclusion of the trip and whether any regulated HMS were collected. In addition, in cases of HMS being shipped to other locations, the collector would be required to notify the local NMFS Office for Law Enforcement 48 hours prior to shipment.

(2) In lieu of the conventional dart tags currently supplied to collectors by NMFS, all live HMS collected for the purpose of public display would be required to have microchip Passive

Integrated Transponder (PIT) tags, which will be supplied by NMFS, implanted by the collector. The use of PIT tags is intended to eliminate problems that frequently occur following implantation of the conventional dart tags. Collectors would not be required to obtain PIT tag readers, but are advised to do so in order to verify that the PIT tag is properly implanted and can be read, and also to have available should law enforcement authorities other than NMFS Enforcement board the fishing vessel. If a NMFS law enforcement officer is unable to detect with the NMFS reader a PIT tag in a HMS collected for display, the collection will be deemed unauthorized.

(3) To minimize mortality associated with the live capture of HMS, permit conditions regarding fishing activities, such as gear deployment, monitoring, or soak time, would be specified on a case-by-case basis. If such measures are not effective in limiting mortalities, other restrictions, such as allowing the use of only certain types of gear for the live capture of HMS for display, could be instituted to minimize the possibility of dead discards.

(4) NMFS would reserve the right to place on-board an authorized collection vessel a fisheries observer to monitor activities governed by an EFP.

(5) The proposed rule also modifies EFP requirements for swordfish offloading. For the directed swordfish fishery, if vessel monitoring systems (VMS) are installed on vessels, separate EFPs to allow delayed offloading would no longer be required.

### Reporting Requirements

NMFS proposes to enhance data collection and reporting by requiring the following:

(1) To reinforce the importance of the year-end report to NMFS concerning the activities conducted under the EFP, in addition to the information currently required for submission, all applications for permit renewals would also be required to include the year-end report from the previous year in order to be considered complete. Renewal applications would not be deemed complete until the year-end report containing all the specified information, is submitted.

(2) In addition to reporting the retention of live HMS, all dead HMS caught and discarded under the permit would have to be reported - these dead discards will be counted against appropriate annual quotas. Additionally, any HMS collected under state-issued permits by persons issued federal EFPs would have to be reported

to NMFS within 5 days of collection. Reporting of HMS collected under state permits will provide important information as to the actual numbers of animals that are being removed from the stocks. If no HMS are collected in either federal or state waters in any given month, a "no-catch" report would have to be submitted to NMFS within 5 days of the last day of that month.

(3) Several prohibitions are proposed to be added or modified to address a) submission of false information on permit applications or activity reports, and b) violations of any of the terms and conditions of the EFP. These prohibitions are needed to facilitate enforcement of EFP application and reporting requirements. Essentially, they extend the permitting, record-keeping, and reporting requirements otherwise applicable to vessels and dealers to those persons issued EFPs.

### Request for Comments

In addition to the changes proposed in this proposed rule, comments are requested on the below-listed potential regulatory requirements. These measures are not being proposed at this time. If, after receiving comments, NMFS decides to issue regulations to implement any of these provisions, NMFS will publish a proposed rule.

(1) To qualify for an EFP for the live collection of HMS for public display purposes, the applicant would be required to demonstrate that holding facilities adequate for animal husbandry are maintained. NMFS will consider accreditation in the American Zoo and Aquarium Association (AZA), or equivalent standards, as meeting these requirements.

(2) Based on available information on disease or mortalities while in captivity, NMFS could limit the issuance of EFPs for the collection of HMS species that are not likely to survive well in captivity, until such time that the best available new information indicates otherwise. This measure could potentially reduce mortality of HMS held in captivity.

(3) EFPs for the purpose of collecting live animals for public display could be issued only to aquariums and other display facilities that meet the AZA standards for such facilities - third party collectors would no longer be issued EFPs, but would be allowed to collect HMS as a third party contractor to the authorized institution.

(4) Public display facilities, including aquariums that are not otherwise authorized by a collection permit, would be required to obtain from NMFS a display permit in order to maintain HMS in captivity. To qualify for this

permit, applicants would need to demonstrate the adequacy of the facility for animal husbandry. NMFS would consider accreditation in the AZA, or equivalent standards, as meeting these requirements.

#### Classification

This proposed rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, and Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq.*

For the purposes of NOAA Administrative Order (NAO) 216–6, the AA has preliminarily determined that this action would not have a significant effect, individually or cumulatively, on the human environment, that it has been sufficiently analyzed in a prior FMP, and that it involves only minor technical additions, corrections or changes to the regulations. Accordingly, under sections 5.05 and 6.03a3(b) of NAO 216–6, this action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number.

This proposed rule contains a new collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement for exempted fishing activity reporting has been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 5 minutes per notification phone call at the beginning and completion of a collection trip and upon shipment of any animals. The estimated time to prepare a catch report required by an EFP issued for display collection is 5 minutes, and to prepare a “no-catch” report the estimated time is 2 minutes. The estimated application preparation and year-end report preparation times for display EFPs are 30 minutes each. Application of a PIT tag to a HMS captured for display is estimated to take 2 minutes.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency; whether the information shall have practical utility; the accuracy of

the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (*see ADDRESSES*).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows. Most of the entities that would be affected by this proposed rule would be considered small entities. The cost to EFP applicants is minimal, estimated at \$3.75 per applicant for the letter, information card, and telephone calls needed to apply, report, and notify. The cost of PIT tags will be incurred by NMFS, which will supply the tags to each permittee. If NMFS decided to select a vessel governed by an EFP for observer coverage, pursuant to 50 CFR 645.7, there would be no significant economic impact. NMFS would provide the observer, and the vessel operator would only be required to provide accommodations and food for the observer equivalent to those provided to the crew. Thus, there would be no significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis was not prepared for this proposed rule.

The proposed action would not significantly change the operations of any HMS fishery and is not expected to increase threats to endangered or threatened species listed under the Endangered Species Act. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of sea turtle species under NMFS jurisdiction. NMFS has implemented the reasonable and prudent alternative specified in the BiOp in a final rule July 9, 2002 (67 FR 45393). The measures proposed would not have any additional impact on sea turtles as these actions would not likely increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. No irreversible and irretrievable commitment are expected from this proposed action that would have the effect of foreclosing the implementation of the requirements of the BiOp.

It is not anticipated that this proposed action would have any impacts on

essential fish habitat and, therefore, no consultation is required.

The AA has determined that this action would have no impacts on the enforceable policies of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management plans under the Coastal Zone Management Act. Accordingly, NMFS has submitted consistency determinations to those states with a request for concurrence.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign Relations, Intergovernmental Relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 2, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

#### PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

**Authority:** 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.28, paragraph (c)(1)(i)(A) is revised to read as follows:

#### § 635.28 Closures.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) \* \* \*

(A) No more than 15 swordfish per trip may be possessed in or from the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state on a vessel using or having on board a longline. However, Atlantic swordfish legally taken prior to the effective date of the closure may be possessed in the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state on a vessel with a longline on board, provided the harvesting vessel does no fishing after the closure in the Atlantic Ocean north of 5° N. lat., and reports positions with a vessel monitoring system, as specified in § 635.69. NMFS may adjust the incidental catch retention limit by filing with the Office of the **Federal Register** for publication notification of the change at least 14 days before the effective date. Changes in the incidental catch limits will be based upon the length of the directed fishery closure and the estimated rate of

catch by vessels fishing under the incidental catch quota.

\* \* \* \* \*

3. In § 635.32, paragraphs (c)(1) and (c)(4) are revised, and paragraphs (c)(3)(i) through (c)(3)(iv) are added to read as follows:

**§ 635.32 Specifically authorized activities.**

\* \* \* \* \*

(c) *Exempted fishing permits.* (1) For activities consistent with the purposes of this section and § 600.745(b)(1) of this chapter, other than scientific research conducted from a scientific research vessel, NMFS may issue exempted fishing permits. Application procedures shall be as indicated under § 600.745(b)(2) of this chapter, except that NMFS may consolidate requests for the purposes of obtaining public comment. In such cases, NMFS may file with the Office of the **Federal Register** for publication notification on an annual or, as necessary, more frequent basis to report on previously authorized exempted fishing activities and to solicit public comment on anticipated exempted fishing requests. Applications for permit renewals are required to include the year-end report from the previous year in order to be considered complete. Renewal applications will be deemed incomplete unless a complete package, including the year-end report containing all the specified information is submitted.

\* \* \* \* \*

(3) \* \* \*

(i) Collectors of HMS for display purposes must notify the local NMFS Office for Law Enforcement 72 hours, excluding weekends and holidays, prior to departing on a collection trip in federal or state waters as to collection

plans and location, and the number of animals to be collected. Also, at the end of each collection trip, upon return to port the collector must call the local NMFS Office for Law Enforcement to report the conclusion of the trip and whether any regulated HMS were collected. In addition, in the case of HMS being shipped to other locations, the collector must notify the local NMFS Office for Law Enforcement 48 hours prior to shipment.

(ii) All live HMS collected for the purpose of public display are required to have microchip Passive Integrated Transponder (PIT) tags, which will be supplied by NMFS, implanted by the collector. Collectors are not required to obtain PIT tag readers, but are advised to do so in order to verify that the PIT tag is properly implanted and can be read. If a NMFS law enforcement officer is unable to detect a PIT tag in a HMS collected for display with the NMFS reader, the collection will be deemed unauthorized.

(iii) Permit conditions regarding fishing activities, such as gear deployment, monitoring, or soak time, will be specified on a case-by-case basis. If such measures are not effective in limiting mortalities, other restrictions, such as allowing the use of only certain types of gear for the live capture of HMS for display, may be instituted to minimize the possibility of dead discards.

(iv) NMFS reserves the right to place on-board an authorized collection vessel a fisheries observer to monitor activities governed by an EFP.

(4) Written reports on fishing activities and disposition of catch for each fish collected under the permit must be submitted to NMFS, at an address designated by NMFS, within 5

days of the collection. An annual written summary report of all fishing activities and disposition of all fish collected under the permit must also be submitted to NMFS at an address designated by NMFS. NMFS will provide specific conditions and requirements consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks in the EFP. In addition, all dead HMS caught and discarded under the permit must be reported. Also, any HMS collected under state-issued permits by persons issued federal EFPs must be reported to NMFS within 5 days of collection. If no HMS are collected in either federal or state waters in any given month, a "no-catch" report must be submitted to NMFS within 5 days of the last day of that month.

4. In § 635.71, paragraphs (a)(6) and (a)(26) are revised to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(6) Falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in § 635.5 or in the terms and conditions of a permit issued under § 635.4 or an exempted fishing permit or scientific research permit issued under the authority of § 635.32.

\* \* \* \* \*

(26) Violate the terms and conditions or any provision of a permit issued under § 635.4, or an exempted fishing permit or scientific research permit issued under the authority of § 635.32.

\* \* \* \* \*

[FR Doc. 02-30874 Filed 12-3-02; 8:45 am]

BILLING CODE 3510-22-S

## Fishery Conservation and Management

## § 600.745

boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) “SQ3” (... —. —. —.) means “you should stop or heave to; I am going to board you.”

[61 FR 32540, June 24, 1996, as amended at 61 FR 37225, July 17, 1996; 63 FR 7075, Feb. 12, 1998]

### § 600.735 Penalties.

Any person committing, or fishing vessel used in the commission of a violation of the Magnuson-Stevens Act or any other statute administered by NOAA and/or any regulation issued under the Magnuson-Stevens Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson-Stevens Act, to this section, to 15 CFR part 904 (Civil Procedures), and to other applicable law.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

### § 600.740 Enforcement policy.

(a) The Magnuson-Stevens Act provides four basic enforcement remedies for violations, in ascending order of severity, as follows:

(1) Issuance of a citation (a type of warning), usually at the scene of the offense (see 15 CFR part 904, subpart E).

(2) Assessment by the Administrator of a civil money penalty.

(3) For certain violations, judicial forfeiture action against the vessel and its catch.

(4) Criminal prosecution of the owner or operator for some offenses. It shall be the policy of NMFS to enforce vigorously and equitably the provisions of the Magnuson-Stevens Act by utilizing that form or combination of authorized remedies best suited in a particular case to this end.

(b) Processing a case under one remedial form usually means that other remedies are inappropriate in that case. However, further investigation or later review may indicate the case to be either more or less serious than initially considered, or may otherwise reveal that the penalty first pursued is inadequate to serve the purposes of the Magnuson-Stevens Act. Under such circumstances, the Agency may pursue

other remedies either in lieu of or in addition to the action originally taken. Forfeiture of the illegal catch does not fall within this general rule and is considered in most cases as only the initial step in remedying a violation by removing the ill-gotten gains of the offense.

(c) If a fishing vessel for which a permit has been issued under the Magnuson-Stevens Act is used in the commission of an offense prohibited by section 307 of the Magnuson-Stevens Act, NOAA may impose permit sanctions, whether or not civil or criminal action has been undertaken against the vessel or its owner or operator. In some cases, the Magnuson-Stevens Act requires permit sanctions following the assessment of a civil penalty or the imposition of a criminal fine. In sum, the Magnuson-Stevens Act treats sanctions against the fishing vessel permit to be the carrying out of a purpose separate from that accomplished by civil and criminal penalties against the vessel or its owner or operator.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

### § 600.745 Scientific research activity, exempted fishing, and exempted educational activity.

(a) *Scientific research activity.* Nothing in this section is intended to inhibit or prevent any scientific research activity conducted by a scientific research vessel. Persons planning to conduct scientific research activities in the EEZ are encouraged to submit to the appropriate Regional Administrator, Director, or designee, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific cruise. The Regional Administrator, Director, or designee will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a letter of acknowledgment. This letter of acknowledgment is separate and distinct from any permit required by any other applicable law. If the Regional Administrator, Director, or designee, after review of a research plan, determines that it does not constitute scientific research but

rather fishing, the Regional Administrator, Director, or designee will inform the applicant as soon as practicable and in writing. The Regional Administrator, Director, or designee may also make recommendations to revise the research plan to make the cruise acceptable as scientific research activity or recommend the applicant request an EFP. In order to facilitate identification of activity as scientific research, persons conducting scientific research activities are advised to carry a copy of the scientific research plan and the letter of acknowledgment on board the scientific research vessel. Activities conducted in accordance with a scientific research plan acknowledged by such a letter are presumed to be scientific research activity. The presumption may be overcome by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

(b) *Exempted fishing*—(1) *General*. A NMFS Regional Administrator or Director may authorize, for limited testing, public display, data collection, exploratory, health and safety, environmental cleanup, and/or hazard removal purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an EFP issued by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section. The Regional Administrator or Director may charge a fee to recover the administrative expenses of issuing an EFP. The amount of the fee will be calculated, at least annually, in accordance with procedures of the NOAA Handbook for determining administrative costs of each special product or service; the fee may not exceed such costs. Persons may contact the appropriate Regional Administrator or Director to find out the applicable fee.

(2) *Application*. An applicant for an EFP shall submit a completed application package to the appropriate Regional Administrator or Director, as soon as practicable and at least 60 days before the desired effective date of the EFP. Submission of an EFP applica-

tion less than 60 days before the desired effective date of the EFP may result in a delayed effective date because of review requirements. The application package must include payment of any required fee as specified by paragraph (b)(1) of this section, and a written application that includes, but is not limited to, the following information:

- (i) The date of the application.
  - (ii) The applicant's name, mailing address, and telephone number.
  - (iii) A statement of the purposes and goals of the exempted fishery for which an EFP is needed, including justification for issuance of the EFP.
  - (iv) For each vessel to be covered by the EFP, as soon as the information is available and before operations begin under the EFP:
    - (A) A copy of the USCG documentation, state license, or registration of each vessel, or the information contained on the appropriate document.
    - (B) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.
  - (v) The species (target and incidental) expected to be harvested under the EFP, the amount(s) of such harvest necessary to conduct the exempted fishing, the arrangements for disposition of all regulated species harvested under the EFP, and any anticipated impacts on marine mammals or endangered species.
  - (vi) For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.
  - (vii) The signature of the applicant.
  - (viii) The Regional Administrator or Director, as appropriate, may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application or an application for which the appropriate fee has not been paid will not be considered until corrected in writing and the fee paid. An applicant for an EFP need not be the owner or operator of the vessel(s) for which the EFP is requested.
- (3) *Issuance*. (i) The Regional Administrator or Director, as appropriate, will review each application and will



make a preliminary determination whether the application contains all of the required information and constitutes an activity appropriate for further consideration. If the Regional Administrator or Director finds that any application does not warrant further consideration, both the applicant and the affected Council(s) will be notified in writing of the reasons for the decision. If the Regional Administrator or Director determines that any application warrants further consideration, notification of receipt of the application will be published in the FEDERAL REGISTER with a brief description of the proposal, and the intent of NMFS to issue an EFP. Interested persons will be given a 15- to 45-day opportunity to comment and/or comments will be requested during public testimony at a Council meeting. The notification may establish a cut-off date for receipt of additional applications to participate in the same, or a similar, exempted fishing activity. The Regional Administrator or Director also will forward copies of the application to the Council(s), the USCG, and the appropriate fishery management agencies of affected states, accompanied by the following information:

(A) The effect of the proposed EFP on the target and incidental species, including the effect on any TAC.

(B) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity.

(C) Biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on marine mammals and threatened or endangered species.

(ii) If the application is complete and warrants additional consultation, the Regional Administrator or Director may consult with the appropriate Council(s) concerning the permit application during the period in which comments have been requested. The Council(s) or the Administrator or Regional Administrator shall notify the applicant in advance of any meeting at which the application will be considered, and offer the applicant the opportunity to appear in support of the application.

(iii) As soon as practicable after receiving responses from the agencies

identified in paragraph (b)(3)(i) of this section, and/or after the consultation, if any, described in paragraph (b)(3)(ii) of this section, the Regional Administrator or Director shall notify the applicant in writing of the decision to grant or deny the EFP, and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(A) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application; or

(B) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect the well-being of the stock of any regulated species of fish, marine mammal, or threatened or endangered species in a significant way; or

(C) Issuance of the EFP would have economic allocation as its sole purpose; or

(D) Activities to be conducted under the EFP would be inconsistent with the intent of this section, the management objectives of the FMP, or other applicable law; or

(E) The applicant has failed to demonstrate a valid justification for the permit; or

(F) The activity proposed under the EFP could create a significant enforcement problem.

(iv) The decision of a Regional Administrator or Director to grant or deny an EFP is the final action of NMFS. If the permit, as granted, is significantly different from the original application, or is denied, NMFS may publish notification in the FEDERAL REGISTER describing the exempted fishing to be conducted under the EFP or the reasons for denial.

(v) The Regional Administrator or Director may attach terms and conditions to the EFP consistent with the purpose of the exempted fishing, including, but not limited to:

(A) The maximum amount of each regulated species that can be harvested and landed during the term of the EFP, including trip limitations, where appropriate.

(B) The number, size(s), name(s), and identification number(s) of the vessel(s) authorized to conduct fishing activities under the EFP.

(C) The time(s) and place(s) where exempted fishing may be conducted.

(D) The type, size, and amount of gear that may be used by each vessel operated under the EFP.

(E) The condition that observers, a vessel monitoring system, or other electronic equipment be carried on board vessels operated under an EFP, and any necessary conditions, such as predeployment notification requirements.

(F) Reasonable data reporting requirements.

(G) Other conditions as may be necessary to assure compliance with the purposes of the EFP, consistent with the objectives of the FMP and other applicable law.

(H) Provisions for public release of data obtained under the EFP that are consistent with NOAA confidentiality of statistics procedures at set out in subpart E. An applicant may be required to waive the right to confidentiality of information gathered while conducting exempted fishing as a condition of an EFP.

(4) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is effective for no longer than 1 year, unless revoked, suspended, or modified. EFPs may be renewed following the application procedures in this section.

(5) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(6) *Transfer.* EFPs issued under this section are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(7) *Inspection.* Any EFP issued under this section must be carried on board the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(8) *Sanctions.* Failure of a permittee to comply with the terms and conditions of an EFP may be grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke,

suspend, or modify an EFP for enforcement purposes will be governed by 15 CFR part 904, subpart D.

(c) *Reports.* (1) Persons conducting scientific research activity are requested to submit a copy of any cruise report or other publication created as a result of the cruise, including the amount, composition, and disposition of their catch, to the appropriate Science and Research Director.

(2) Persons fishing under an EFP are required to report their catches to the appropriate Regional Administrator or Director, as specified in the EFP.

(d) *Exempted educational activities—*(1) *General.* A NMFS Regional Administrator or Director may authorize, for educational purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. The decision of a Regional Administrator or Director to grant or deny an exempted educational activity authorization is the final action of NMFS. Exempted educational activities may not be conducted unless authorized in writing by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section. Such authorization will be issued without charge.

(2) *Application.* An applicant for an exempted educational activity authorization shall submit to the appropriate Regional Administrator or Director, at least 15 days before the desired effective date of the authorization, a written application that includes, but is not limited to, the following information:

- (i) The date of the application.
- (ii) The applicant's name, mailing address, and telephone number.
- (iii) A brief statement of the purposes and goals of the exempted educational activity for which authorization is requested, including a general description of the arrangements for disposition of all species collected.
- (iv) Evidence that the sponsoring institution is a valid educational institution, such as accreditation by a recognized national or international accreditation body.
- (v) The scope and duration of the activity.

(vi) For each vessel to be covered by the authorization:

(A) A copy of the U.S. Coast Guard documentation, state license, or registration of the vessel, or the information contained on the appropriate document.

(B) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.

(vii) The species and amounts expected to be caught during the exempted educational activity.

(viii) For each vessel covered by the authorization, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.

(ix) The signature of the applicant.

(x) The Regional Administrator or Director may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application will not be considered until corrected in writing.

(3) *Issuance.* (i) The Regional Administrator or Director, as appropriate, will review each application and will make a determination whether the application contains all of the required information, is consistent with the goals, objectives, and requirements of the FMP or regulations and other applicable law, and constitutes a valid exempted educational activity. The applicant will be notified in writing of the decision within 5 working days of receipt of the application.

(ii) The Regional Administrator or Director may attach terms and conditions to the authorization, consistent with the purpose of the exempted educational activity, including, but not limited to:

(A) The maximum amount of each regulated species that may be harvested.

(B) The time(s) and place(s) where the exempted educational activity may be conducted.

(C) The type, size, and amount of gear that may be used by each vessel operated under the authorization.

(D) Reasonable data reporting requirements.

(E) Such other conditions as may be necessary to assure compliance with

the purposes of the authorization, consistent with the objectives of the FMP or regulations.

(F) Provisions for public release of data obtained under the authorization, consistent with NOAA confidentiality of statistics procedures in subpart E. An applicant may be required to waive the right to confidentiality of information gathered while conducting exempted educational activities as a condition of the authorization.

(iii) The authorization will specify the scope of the authorized activity and will include, at a minimum, the duration, vessel(s), species and gear involved in the activity, as well as any additional terms and conditions specified under paragraph (d)(3)(ii) of this section.

(4) *Duration.* Unless otherwise specified, authorization for an exempted educational activity is effective for no longer than 1 year, unless revoked, suspended, or modified. Authorizations may be renewed following the application procedures in this section.

(5) *Alteration.* Any authorization that has been altered, erased, or mutilated is invalid.

(6) *Transfer.* Authorizations issued under this paragraph (d) are not transferable or assignable.

(7) *Inspection.* Any authorization issued under this paragraph (d) must be carried on board the vessel(s) for which it was issued or be in possession of the applicant to which it was issued while the exempted educational activity is being conducted. The authorization must be presented for inspection upon request of any authorized officer. Activities that meet the definition of fishing, despite an educational purpose, are fishing. An authorization may allow covered fishing activities; however, fishing activities conducted outside the scope of an authorization for exempted educational activities are illegal.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

**§ 600.746 Observers.**

(a) *Applicability.* This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer

issued, that are disproportionate to the weight of shark carcasses landed (the wet fins may not exceed 5 percent of the weight of the carcasses).

(4) Only dealers that have a valid permit for shark may purchase a shark from the owner or operator of a fishing vessel. Dealers may purchase a shark only from an owner or operator of a vessel who has a valid commercial permit for shark issued under this part, except that dealers may purchase a shark from an owner or operator of a vessel that does not have a commercial permit for shark if that vessel fishes exclusively in state waters. Dealers may purchase a shark from an owner or operator of fishing vessel that has a permit issued under this part only when the fishery for that species group has not been closed, as specified in § 635.28(b)(3).

(5) Dealers may not purchase from an owner or operator of a fishing vessel shark fins that are disproportionate to the weight of shark carcasses landed (the wet fins may not exceed 5 percent of the weight of the carcasses).

(d) *Swordfish.* (1) Persons that own or operate a vessel on which a swordfish in or from the Atlantic Ocean is possessed may sell such swordfish only if the vessel has a valid commercial permit for swordfish issued under this part. Persons may sell such swordfish only to a dealer who has a valid permit for swordfish issued under this part.

(2) Dealers may purchase a swordfish harvested from the Atlantic Ocean only from an owner or operator of a fishing vessel that has a valid commercial permit for swordfish issued under this part.

#### **§ 635.32 Specifically authorized activities.**

(a) *General.* Consistent with the provisions of § 600.745 of this chapter, except as indicated in this section, NMFS may authorize for the conduct of scientific research or the acquisition of information and data, for the enhancement of safety at sea, for the purpose of collecting animals for public education or display, or for investigating the reduction of bycatch, economic discards or regulatory discards, activities otherwise prohibited by the regulations contained in this part. Activities sub-

ject to the provisions of this section include, but are not limited to, scientific research resulting in, or likely to result in, the take, harvest or incidental mortality of Atlantic HMS, exempted fishing and exempted educational activities, or programs under which regulated species retained in contravention to otherwise applicable regulations may be donated through approved food bank networks. Such activities must be authorized in writing and are subject to all conditions specified in any letter of acknowledgment, exempted fishing permit or scientific research permit issued in response to requests for authorization under this section. For the purposes of all regulated species covered under this part, NMFS has the sole authority to issue permits, authorizations, and acknowledgments. If a regulated species landed or retained under the authority of this section is subject to a quota, the fish shall be counted against the quota category as specified in the written authorization.

(b) *Scientific research activities.* For the purposes of all species covered under this part regulated under the authority of ATCA, the provisions for research plans under § 600.745(a) and reports under § 600.745(c)(1) of this chapter are mandatory. In such cases of authorized scientific research activities, NMFS shall issue scientific research permits. For scientific research activities involving the capture of Atlantic sharks, research plans and reports are requested; letters of acknowledgment shall be issued by NMFS as indicated under § 600.745(a) of this chapter.

(c) *Exempted fishing permits.* (1) For activities consistent with the purposes of this section and § 600.745(b)(1) of this chapter, other than scientific research conducted from a scientific research vessel, NMFS may issue exempted fishing permits. Application procedures shall be as indicated under § 600.745(b)(2) of this chapter, except that NMFS may consolidate requests for the purposes of obtaining public comment. In such cases, NMFS may file with the Office of the Federal Register for publication notification on an annual or, as necessary, more frequent basis to report on previously authorized exempted fishing activities and to

### § 635.33

solicit public comment on anticipated exempted fishing requests.

(2) Notwithstanding the provisions of § 600.745 of this chapter and other provisions of this part, a valid shark EFP is required to fish for, take, retain, or possess a shark in or from the Atlantic EEZ for the purposes of public display under the shark public display quota specified in § 635.27(b)(2). A valid shark EFP must be on board the harvesting vessel, must be available when the shark is landed, must be available when the shark is transported to the display facility, and must be presented for inspection upon request of an authorized officer. A shark EFP is valid for the specific time, area, gear, and species specified on it.

(3) To be eligible for a shark EFP, a person must provide all information concerning his or her identification, numbers by species of sharks to be collected, when and where they will be collected, vessel(s) and gear to be used, description of the facility where they will be displayed, and any other information that may be necessary for the issuance or administration of the permit, as requested by NMFS.

(4) Written reports on fishing activities and disposition of catch must be submitted to NMFS at an address designated by NMFS, for each fish collected within 5 days of the collection. An annual written summary report of all fishing activities and disposition of all fish collected under the permit must also be submitted to NMFS at an address designated by NMFS. NMFS will provide specific conditions and requirements, consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks in the EFP.

### § 635.33 Archival tags.

(a) *Implantation report.* Any person affixing or implanting an archival tag into a regulated species must obtain written authorization from NMFS pursuant to § 635.32. Persons so authorized to conduct archival tag implantation must provide a written report to NMFS at an address designated by NMFS, indicating the type and number of tags, the species and approximate size of the fish as well as any additional information requested in the authorization.

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(b) *Landing.* Notwithstanding other provisions of this part, persons may catch, possess, retain, and land an Atlantic HMS in which an archival tag has been implanted or affixed, provided such persons comply with the requirements of paragraph (c) of this section.

(c) *Landing report.* Persons that retain an Atlantic HMS that has an archival tag must contact NMFS, prior to or at the time of landing; furnish all requested information regarding the location and method of capture; and, as instructed, remove the archival tag and return it to NMFS or make the fish available for inspection and recovery of the tag by a NMFS scientist, enforcement agent, or other person designated in writing by NMFS.

(d) *Quota monitoring.* If an Atlantic HMS landed under the authority of paragraph (b) of this section is subject to a quota, the fish will be counted against the applicable quota for the species consistent with the fishing gear and activity which resulted in the catch. In the event such fishing gear or activity is otherwise prohibited under applicable provisions of this part, the fish shall be counted against the reserve quota established for that species.

### § 635.34 Adjustment of management measures.

(a) NMFS may adjust the catch limits for BFT, as specified in § 635.23, and the quotas for BFT, shark, and swordfish, as specified in § 635.27.

(b) In accordance with the framework procedures in the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and the Fishery Management Plan for Atlantic Billfishes, NMFS may establish or modify for species or species groups of Atlantic HMS the following management measures: maximum sustainable yield or optimum yield levels based on the latest stock assessment or updates in the SAFE report; domestic quotas; recreational and commercial retention limits, including target catch requirements; size limits; fishing years or fishing seasons; species in the management unit and the specification of the species groups to which they belong; permitting and reporting requirements; Atlantic tunas Purse Seine category

**SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853**

**95-354, 99-659, 101-627, 104-297**

**(a) REQUIRED PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to,

information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

**(b) DISCRETIONARY PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]\* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]\*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and



(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

## Sec. 971d. Administration

- (a) Regulations; cooperation with other parties to Convention; utilization of personnel, services, and facilities for enforcement

The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the exclusive economic zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

- (b) Primary enforcement responsibility

Enforcement activities at sea under the provisions of this chapter for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

- (c) Regulations and other measures to carry out Commission recommendations

- (1)

- (A) Upon favorable action by the Secretary of State under section [971c](#)(a) of this title on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.
- (B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations

made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

- (C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).
- (2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and (B) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.
- (3) The regulations required to be promulgated under paragraph (1) of this subsection may -
  - (A) select for regulation one or more of the species covered by the Convention;
  - (B) divide the Convention waters into areas;
  - (C) establish one or more open or closed seasons as to each such area;
  - (D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;
  - (E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;
  - (F) require records of operations to be kept by any master or other person in charge of any fishing vessel;
  - (G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this chapter;
  - (H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the

Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;

- (I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;
  - (J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and
  - (K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention; except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.
- (4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit -
    - (A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and
    - (B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.
  - (5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation

by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

- (6) Identification and notification. -
  - (A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall -
    - (i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;
    - (ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and
    - (iii) publish a list of those Nations identified under clause
      - () notify the President and the nation so identified,
    - (B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.
  - (7) Consultation. - Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will -
    - (A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;
    - (B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and
    - (C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.
- (d) Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish
  - (1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of

State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section [3](#)(16) [11](#) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(16))) in the Convention area.

- (2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.
-

## Sec. 971e. Violations

- (a) In general

It shall be unlawful -

- (1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section [971d](#) of this title; or
- (2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section [971d](#) of this title, without regard to the citizenship of the person or vessel which took the fish.

- (b) Failure to furnish returns, records, or reports

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

- (c) Refusal of request to board and inspect vessel

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

- (d) Importation of ineligible species or species under investigation

It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section [971d](#)(c) or (d) (FOOTNOTE 1) of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section [971d](#)(c) or (d) [11](#) of this title. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such



deposit rate will be 8.10 percent, the “all-others” rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department’s regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

January 31, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02–2870 Filed 2–5–02; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 020102B]

#### Proposed Information Collection; Comment Request; Scientific Research, Exempted Fishing, and Exempted Activity Submissions

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

**DATES:** Written comments must be submitted on or before April 8, 2002.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or

copies of the information collection instrument(s) and instructions should be directed to William D. Chappell, Fisheries Management Specialist, at 301–713–2341 or William.Chappell@noaa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Fishery regulations do not generally affect scientific research activities conducted by a scientific research vessel. Persons planning to conduct such research are encouraged to submit a research plan to ensure that the activities are considered research and not fishing. NOAA may also grant exemptions from fishery regulations for educational or other activities (e.g. testing of fishing gear). Applications for these exemptions must be submitted, and reports on activities submitted. Somewhat different requirements apply to the Atlantic Highly Migratory Species fishery, including certain arrival and offloading reports.

##### II. Method of Collection

Most information is submitted on forms or other written format. Some information may be phoned to NOAA.

##### III. Data

*OMB Number:* 0648–0309.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business and other for-profit; individuals or households; not-for-profit institutions; State, Local, or Tribal government.

*Estimated Number of Respondents:* 359.

*Estimated Time Per Response:* 1 hour for a scientific research plan, an exempted fishing permit request, or an exempted fishing permit report; 10 minutes for an application for an exempted fishing permit/letter of authorization for commercial fishing for Highly Migratory Species; 30 minutes for an application for an exempted fishing permit/letter of authorization for non-commercial fishing for Highly Migratory Species; 30 minutes for an annual summary of activities under an exempted fishing permit/letter of authorization for sharks; 5 minutes for an arrival report for a vessel with a swordfish exempted fishing permit/letter of authorization; 5 minutes for a report on non-commercial activities under an exempted fishing permit/letter of authorization for Highly Migratory Species; and 5 minutes for an off-loading notification for swordfish for a vessel with an exempted fishing permit/letter of authorization.

*Estimated Total Annual Burden Hours:* 435.

*Estimated Total Annual Cost to Public:* \$500.

#### IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 31, 2002.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 02–2876 Filed 2–5–02; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Intelligence Agency, Science and Technology Advisory Board, Standing Committee of Emerging Chemical and Biological Technology Advisory Committee of Experts Closed Panel Meeting

**AGENCY:** Defense Intelligence Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory board, Standing Committee on Emerging Chemical and Biological Technology Advisory Committee of Experts has been scheduled as follows:

**DATES:** 13 & 14 February 2002 (0800am–1700pm).

**ADDRESSES:** San Diego, California 92118.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack A McNulty, Director, DIA Science and Technology Advisory Board, Standing Committee on Emerging Chemical and Biological Technology